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210 N. Park Ave.  
P.O. Drawer 200  
Winter Park, FL  
32790-0200

Tel: 407-740-8575  
Fax: 407-740-0613  
tmi@tminc.com

June 18, 1998

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street NW  
Washington, DC 20554

RE: National Brands, Inc. d/b/a Sharenet Communications Company  
Petition for Waiver in CC Docket 92-77

Dear Secretary Salas:

Enclosed for filing with the Commission on behalf of National Brands, Inc. d/b/a Sharenet Communications Company is an original and four (4) copies of the PETITION FOR WAIVER OF SHARENET COMMUNICATIONS in CC Docket 92-77.

To confirm the Commission's receipt of this Petition, kindly date-stamp the enclosed extra copy of this cover letter and return it to me in the self-addressed, stamped envelop provided.

Should you have any questions concerning this request, kindly address them to the undersigned or to Gary Joseph, Vice President of Sharenet, at 4633 W. Polk Street, Phoenix, AZ 85043, telephone number 602- 269-3201.

Very truly yours,

Amy S. Gross  
Consultant for  
National Brands, Inc., d/b/a/Sharenet Communications Company

cc: Gary Joseph

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 92-77
Billed party Preference for	)	
InterLATA 0+ calls	)	

**Petition for Waiver of Sharenet Communications**

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F. R. § 1.3, National Brands, Inc. d/b/a Sharenet Communications Company ("Sharenet") hereby requests a waiver of the July 1, 1998 implementation date of Section 63.703(a)(4) of the Commission's rules relating to the availability of on-demand rate quotes for 0+ calls placed from aggregator locations.<sup>1</sup>

**I. Introduction and Background**

The Order requires that all operator service providers ("OSPs") offer customers the option of obtaining a rate quote prior to completing their call by dialing no more than two digits. Order at ¶ 17. However, the Commission specifically recognized that OSPs who use store and forward technology would need additional time to comply with the rule due to the need for extensive equipment retrofitting and development. Order at ¶ 27. In addition, the Commission indicated that it was prepared to consider waiver requests on specific factual showing of good cause. Id.

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<sup>1</sup> The rules were adopted in the Commission's Second Report and Order on Reconsideration (the "Order"), FCC 98-9, released January 29, 1998.

As set forth below, technical, financial and practical reasons prevent Sharenet from implementing these requirements by July 1, 1998. Many of these hurdles are the same as those faced by store and forward OSPs, as to whom the Commission has already adopted a delayed implementation date of October 1, 1999. Accordingly, Sharenet respectfully requests a waiver to permit it to implement the new rules no later than October 1, 1999 but in any event no earlier than May 31, 1999.

In further support of its request, Sharenet notes the pendency of several petitions for Reconsideration and/or Clarification of the Order, most citing technical problems associated with implementation and seeking a delay for all carriers until October 1, 1999.<sup>2</sup> In addition, several carriers, including AT&T, have filed waiver requests seeking additional time in which to implement the technical changes required by the new rules. The difficulties described by these carriers, all of whom are much larger than Sharenet, offer further support for equity involved in granting the instant waiver request.<sup>3</sup>

## **II Implementation by July 1 Deadline Would be Technically and Financially Infeasible**

Sharenet is a small operator services provider located in Phoenix, Arizona. It provides service in ten states nationwide, but primarily in Arizona. Sharenet serves approximately 14,500 locations throughout the United States. In 1997, Sharenet's records

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<sup>2</sup> See, e.g., Petitions dated April 9, 1998 filed by Cleartel Communications, Inc., Operator Service Company and Teltrust Communications Services, Inc.; One Call Communications, Inc.; Comments dated May 6, 1998 filed by MCI, LCI and AT&T.

<sup>3</sup> Indeed, Sharenet believes that these Petitions provide persuasive evidence of the need for an industry-wide implementation delay and would support such a delay in lieu of granting the relief requested herein.

show it received only a handful of interstate consumer complaints concerning its operator services, equating to .0016% of its total interstate traffic.

While Sharenet has its own switching facilities, it does not have its own live operator center. Therefore, it purchases live operator services on a per transaction basis from an unaffiliated third party vendor. Sharenet's switch records the billing data for calls which can be completed on an automated basis, i.e., automated calling card calls and automated collect calls, and then routes them for completion over Sharenet's resold long distance facilities. Calls which require a live operator, including requests for rate quotes, are routed automatically to the third party vendor. The third party vendor provides the appropriate live operator treatment and then completes the call over its own network facilities. The raw call records are then sent to Sharenet for rating and billing using its own systems and billing arrangements. Sharenet is billed on a per transaction basis for the live operator treatment.

Under the current network arrangements between the parties, there is no way for the vendor to return the call to Sharenet's network for completion once the live operator intervention is completed. Due to the different switching equipment used by the parties, development and implementation of this capability would need to be undertaken by the two switch manufacturers involved. Accordingly, the development of this capability is not within the control of Sharenet and to Sharenet's knowledge, no such development is planned.

Shortly after release of the Order, Sharenet began discussions with its switch vendor, Harris Digital Telephone Systems, to determine whether and what type of

modifications could be made to its switch in order to enable Sharenet to comply with the Commission's Order. Specifically, Sharenet requested modifications which would allow it to play the required announcement and offer automated rate quotes to interstate 0+ callers and to the called party on an automated collect call. Once the rate quote had been provided, the calls could then be automatically completed over Sharenet's network if the billed party so desired.

Despite Sharenet's repeated requests, Harris responded with a firm proposal and price for the necessary switch modifications only at first week of June, 1998. This proposal, among other things, requires Sharenet to purchase an expensive, prior software release **as well as** the release necessary containing the software necessary to implement the Commission's order. However, this package is prohibitively expensive for a small carrier such as Sharenet to absorb on an ad-hoc basis, outside of the normal cash flows of the Company. In addition, the release has not yet been beta-tested. Due to the time frames involved, Sharenet has been unable to rigorously pursue this matter with Harris or seek alternative vendors to determine if a more cost efficient solution can be reached.

Under the circumstances, in order to meet the July 1 deadline, Sharenet is faced with the dilemma of either purchasing a very expensive, untested and unbudgeted switch upgrade or defaulting all of its traffic to the live operators provided by its vendor. The latter solution will not only increase Sharenet's costs, but also significantly reduce its revenue and strand its network and switching capacity investments. If, however, Sharenet were granted a waiver of the Commission's rules, it believes it would be able to resolve the various issues with Harris and reserve and accrue for the 1999 capital budget dollars

necessary to purchase the upgrade. Given the small number of locations involved (less than 15,000 compared to the 60,000 store and forward phones deployed nationwide by just Intellicall<sup>4</sup> and for which a deferred implementation date is already in place), and Sharenet's low incidence of the types of complaints which precipitated the Commission's action in the Order, Sharenet believes that a grant of the instant request would not harm consumers and is in the public interest.

**A. Default to A Live Operator is Not Financially or Technically Feasible**

As described above, Sharenet obtains live operator services, including rate quotes, from a third party vendor. Like a store and forward phone, Sharenet's switch can automatically send the call to another party for a rate quote, but the call cannot be returned to Sharenet's switch for call completion. In order for Sharenet to process the call, the caller would need to hang up and originate a new call.<sup>5</sup> Such an arrangement would appear to be in contradiction of the intent of rule – that the consumer be able to obtain a rate quote without having to dial a separate number and be able to complete the call in a seamless fashion after obtaining a rate quote. Thus, Sharenet would have to forgo altogether the handling of those calls through its automated system<sup>6</sup> and allow its vendor to complete

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<sup>4</sup> Order at ¶27.

<sup>5</sup> Such a result is clearly not what the Commission had in mind. As the discussion in ¶ 22 of the Order indicates, the Commission assumed that rate announcements could be made in an efficient manner and with little additional set-up or processing delays. For these reason, carriers are allowed to proceed with call set-up while the announcement is being delivered.

<sup>6</sup> Such an arrangement is also likely to engender customer dissatisfaction, resulting in fewer completed calls, lower revenue and loss of market share.

each of the calls for which a rate quote had been requested. Since automated calls constitute approximately 60% of Sharenet's traffic, if only 50% of the callers request a rate quote and need to be diverted to the live operator vendor, Sharenet would in effect be foregoing over 30% of its revenue while substantially increasing its costs per call. In effect, each 0+ call requiring a rate quote will cost the same to process as a live operator assisted call, but only the lower, automated call charge could be applied.

Nor would the extra costs stop there. Since traffic sent to the live operator would be traffic lost to Sharenet's network, its overall call volume would be reduced by as much as 30%. This would not only drive up its cost per call further, but also strand a large portion of its network, switching and support facilities investment as circuits, switching and routing equipment sat idle. Furthermore, the anticipated increase in the volume of traffic sent to the vendor would likely require additional dedicated network facilities between the vendor's location and Sharenet's switch. These facilities are above and beyond those needed for business as usual, and would be costly to install, especially on an expedited, short term commitment basis.

Similarly, in order to avoid losing more traffic than necessary to the live operator vendor, and since the requirement only applies to interstate calls, Sharenet would want to reduce its costs by diverting only interstate 0+ calls. However, as other petitioners and commenters have noted<sup>7</sup>, many switch types, including Sharenet's do not currently determine if a 0+ call is interstate or intrastate. Thus, special programming would need to

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<sup>7</sup> Cleartel, et. al., at 6.

be developed and additional equipment purchased to perform this function. Sharenet estimates that the total cost would be approximately \$30,000.00 and take 6 months to develop and deploy.

Finally, Sharenet has to expect that the routing of all rate quote requests to its live operator vendor will significantly increase its ratio of uncompleted to completed calls, and cause a proportional increase in its per call costs from the vendor. These are costs over which Sharenet has no control. Nor can it control the operations of its vendor as they relate to the handling of call queuing, increased holding times and the procurement of additional human and network capacity to process the increased call volumes. Moreover, Sharenet is not sure that when the vendor returns the call records to Sharenet for rating and billing, the vendor will be able to flag the calls which came in on an automated basis and thus need to be billed at the automated, rather than live operator, service charge rate. The vendor's inability to perform this function will cause automated calls to be improperly rated through no fault of Sharenet, engendering customer disputes and unnecessary confusion.

In short, any interim solution will result in increased costs which would have to be recovered from consumers in the form of higher rates, longer holding times and perceptively inferior service. More importantly, any interim solution will require the commitment of financial resources, development time and human resources that Sharenet believes would be better spent towards a permanent, automated solution.



**B. An Automated System is Close to Being Available  
But is Cost-Prohibitive In the Short Term**

As stated above, Sharenet's switch vendor, Harris, has developed the software necessary to comply with the Commission's Order for both 0+ and collect calls. This includes the ability to distinguish interstate and intrastate calls. The release is scheduled to be available September 30, 1998. According to Harris, that portion of the release necessary to implement the Commission's order is available now. However, no portion of the release, including the portion necessary to implement the Commission's order, has been beta tested. Thus, each company purchasing the release before September, 1998 will have to sign a beta test agreement and allow its customers to become the guinea pigs.

Sharenet has never purchased a release that was not beta tested. Typically, the switch vendor has an arrangement with a large customer to act as a beta test site. This customer has multiple switches as well as the manpower to oversee the testing and to divert traffic to another switch if the software is not operating properly or causes problems with other programs. It is not unusual for the beta test to uncover problems with the software that need to be corrected and then re-tested. As a small, one-switch company, Sharenet does not have the resources to act as a beta site. Nor would it want to ask its customers to endure the possibility of serious service interruptions while the software was being tested and de-bugged during what was in effect a test across Sharenet's entire network.

In addition to these technical concerns, the software itself constitutes a very large monetary commitment for a small company such as Sharenet. Significantly, the cost of the

upgrade alone is more than 2% of Sharenet's 1997 interstate revenues. Add to this the normal internal and external costs of testing and installation, and compliance with the Commission's Order becomes a significant cash flow item. Since Sharenet was not aware of this requirement at the time it did its 1998 capital budget and cash flow analysis, no reserves or accruals are in place for this expenditure.

Sharenet recognizes its obligation to comply with the Commission's rules and is willing to do so – it is simply requesting additional time in which to include the upgrade costs in its capital budgeting process, make the necessary accruals and allow the manufacturer to perform the necessary testing. Sharenet believes that the earliest this can be accomplished is within 12 months, or by May 31, 1999. This is generally consistent with the estimates provided by AT&T for the upgrading of its network to meet the Commission's requirements. See, AT&T Petition for Waiver at 6-9 (generally estimating completion by the end of the third quarter of 1999).

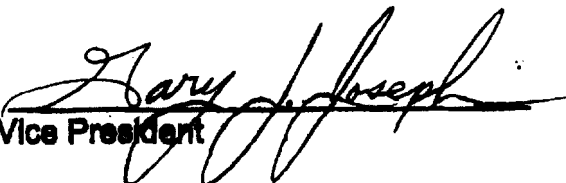
### **III. No Harm Will Result from The Requested Waiver**

The facts set forth above demonstrate the special circumstances which support the waiver requested herein. Sharenet is a small operator service provider who has not been the subject of any significant number of complaints and to whom the problems in the industry cannot be said to be generally attributable. Since it provides only automated operator service, Sharenet is more like a store and forward based OSP than a network based OSP, and should be accorded the same deferred implementation date. The waiver

requested herein would merely place Sharenet on a par with those OSPs.<sup>8</sup> Given the much smaller number of customers served by Sharenet when compared to store and forward operators, Sharenet believes that grant of its request will not have a significant impact on consumers.<sup>9</sup> For these reasons, Sharenet requests an extension of the compliance date until the October 1, 1999, compliance date for store and forward phones. In the alternative, Sharenet requests an extension until May 31, 1999, the minimal amount of time necessary for Sharenet to devote the monetary and human resources necessary to comply with the new rules.

Respectfully submitted,

NATIONAL BRANDS, INC.  
D/B/A SHARENET COMMUNICATIONS COMPANY

By:   
Its Vice President

4633 W. Polk St.  
Phoenix, Arizona 85043  
602-269-3201

Dated: June 17, 1998

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<sup>8</sup> As stated earlier, several other carriers have requested additional implementation time, suggesting that the Commission may have underestimated the time and expense necessary to comply with the new rules. Therefore, Sharenet believes it would be most appropriate to postpone the effective date for all OSPs, and supports the petitions filed to the that effect. The instant Petition is filed because Sharenet is uncertain whether the Commission will act favorably on those petitions prior to the July 1 deadline.

<sup>9</sup> Importantly, consumers will still be able to request and obtain a free rate quote before completing their calls and all phones will continue to be branded and posted with the required consumer information in accordance with Section 64.703 of the Commission's rules.

Certificate of Service

I, Amy S. Gross, hereby certify that I caused to be mailed, by first class United States mail, postage prepaid, a true and correct copy of the foregoing PETITION FOR WAIVER OF SHARENET COMMUNICATIONS, this 17<sup>th</sup> day of June, 1998 to the persons listed below.

Randall B. Lowe  
Piper & Marbury LLP  
1200 19<sup>th</sup> Street, NW  
Washington, DC 20036

Dana Frix  
Kathleen L. Greenan  
Swidler & Berlin Chartered  
3000 K Street, NW  
Washington, DC 20007

Steven Augustino  
Kelley Drye & Warren LLP  
1200 19<sup>th</sup> Street, NW, Suite 500  
Washington, DC 20036

Adrien R. Auger\*  
Federal Communications Commission  
Enforcement Division  
2025 M Street NW, Mail Stop 1600A  
Washington, DC 20554

Robert W. Spangler\*  
Federal Communications Commission  
Enforcement Division  
2025 M Street NW, Mail Stop 1600A  
Washington, DC 20554

Lawrence E. Strickling\*  
Federal Communications Commission  
Common Carrier Bureau  
1919 M Street NW, Room 500  
Washington, DC 20554

\* included in Overnight Package to FCC

  
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Amy S. Gross